

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
BECKLEY DIVISION**

GREENBRIER HOTEL CORPORATION, et al.,

Plaintiffs,

v.

**CIVIL ACTION NO. 5:19-cv-00772
Honorable Thomas E. Johnston**

GOODMAN-GABLE-GOULD/ADJUSTERS INTERNATIONAL,

Defendant.

JOINT MOTION TO AMEND DECEMBER 14, 2020 SCHEDULING ORDER

COME NOW Plaintiffs, Greenbrier Hotel Corporation, The Greenbrier Sporting Club, Inc., Greenbrier Sporting Club Development Company, Inc., Old White Charities, Inc., and Oakhurst Club, LLC, by counsel, and Defendant, Goodman-Gable-Gould/Adjusters International (collectively, “the Parties”), by counsel, pursuant to Rule 16(b)(4) of the Federal Rules of Civil Procedure, and respectfully request that this Court modify its December 14, 2020 Scheduling Order to address issues presented by the lingering COVID-19 coronavirus pandemic and to permit the Parties additional time to complete discovery and depositions, submit dispositive motions, conduct trial, and work towards a resolution of this matter. The Parties are mindful of and appreciate the Court’s prior modifications of the schedule and, as outlined below, respectfully submit that good cause exists for the requested modification. The Parties’ joint motion is supported by the following facts and arguments:

1. On September 28, 2020, the Court held a telephonic status conference after the consolidation of this case with the case transferred to this Court from the District of Columbia. During the status conference, the parties requested an amended scheduling order be entered to address the additional time that would be needed in light of the additional claims added by the

consolidation. The Court agreed to the Parties' request for an extension and entered the First Amended Scheduling Order on September 29, 2020 [ECF No. 95].

2. On December 11, 2020, the Parties filed a Joint Motion to amend the First Amended Scheduling Order [ECF No. 115], which was granted on December 14, 2020 [ECF No. 116].

3. Thereafter the Parties continued rolling document productions and worked through numerous discovery disputes. The Parties each filed and/or briefed Motions to Compel further discovery, conducted a status conference with the Magistrate Judge regarding those motions, prepared and filed a joint report on outstanding discovery issues, conducted several telephonic conferences regarding discovery, and ultimately signed a Joint Stipulation resolving and withdrawing the Motions to Compel.

4. The discovery Stipulation addressed dozens of issues with interrogatories and requests for production of documents. The Parties are now in the process of effectuating the agreements reached in the Stipulation, and in particular producing and reviewing over one hundred thousand of pages of documents, including thousands of documents obtained from a third party by subpoena.

5. Counsel on both sides believe that obtaining and reviewing the relevant documents is required before moving forward with disclosing expert opinions and beginning substantive witness depositions. For purposes of efficiency, the Parties agree that it is preferable to schedule and conduct depositions in an orderly fashion.

6. In this regard—and should the Court grant the Parties' requested extension—counsel for the Parties have discussed conducting, and prefer to conduct, witness and expert depositions in person at such time that vaccinations or other measures permit.

7. Because the Parties anticipate additional time to complete discovery and depositions, they also anticipate the need for additional time to file dispositive motions and prepare for trial.

8. The Parties thus request an extension of the remaining deadlines to afford the Parties additional time for discovery, to file dispositive motions, and to engage in good-faith settlement negotiations. The proposed deadlines below have been agreed upon by counsel based upon counsel's availability. Should the Court grant the requested extension, the Parties recognize that the final deadlines set will be based upon the Court's availability.

9. Rule 16(b) of the Federal Rules of Civil Procedure requires judicial consent and good cause to modify a Scheduling Order. Fed. R. Civ. P. 16(b)(4).

10. Good cause, as well as compelling circumstances, exists to amend the December 14, 2020 Scheduling Order because the Parties have diligently worked to take depositions and produce responsive information, but unforeseen circumstances and unavoidable delays have resulted from the COVID-19 pandemic.

11. If the Court grants this Joint Motion, the Parties request the following amendments:

Last date to serve discovery requests	08/16/2021
Discovery to close:	09/27/2021
Opening Rule 26 expert disclosures	08/02/2021
Responsive Rule 26 expert disclosures	09/01/2021
Rebuttal Rule 26 expert disclosures	09/17/2021
Dispositive motions deadline:	10/20/2021
Response to dispositive motions:	11/03/2021
Reply to response to dispositive motions:	11/10/2021

Settlement meeting:	12/20/2021	
Motion in limine deadline:	01/10/2022	
Responses for motions in limine:	01/17/2022	
Proposed pretrial order to defendant:	12/30/2021	
Integrated pretrial order:	01/07/2022	
Pretrial conference:	02/23/2022	10:00 AM
Proposed jury charge:	02/28/2022	
Final settlement conference:	02/17/2022	10:00 AM
Trial:	03/07/2022	9:00 AM

12. Other than above, no other deadlines will be affected by this Court granting the Joint Motion.

13. The proposed modification to the December 14, 2020 Scheduling Order sought by this Joint Motion will not prejudice the position of any party because sufficient time will remain after the enlarged discovery deadline and before the extended trial date to enable each party to comply in a timely manner with the deadlines established in a forthcoming modified scheduling order upon leave of Court.

WHEREFORE, the Parties respectfully request this Court grant their Joint Motion and amend the December 14, 2020 Scheduling Order as set forth herein.

Prepared by:

/s/ Morgan E. Villers
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CERTIFICATE OF SERVICE

I hereby certify that on March 23, 2021, I electronically filed the foregoing ***Joint Motion to Amend December 14, 2020 Scheduling Order*** with the Clerk of Court using the CM/ECF System, which will automatically send e-mail notification of such filing to all counsel of record.

/s/ Christopher D. Pence
CHRISTOPHER D. PENCE